IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4453 OF 2005

Mukesh Panjwani ...Applicant
Vs.
The State of Maharashtra & Ors. ...Respondents

Shri A.P. Mundargi, Sr. Counsel i/by Mr. Rishi Bhuta for the Applicant.
Ms Rajeshree Gadhvi, A.P.P. for the Respondent No.1.
Shri S.R. Chitnis, Sr. Advocate alongwith Mahesh Kotian for the Respondent No.4.

CORAM : A. S. OKA, J.
DATE : OCTOBER 04, 2005.

P.C.:

1. The prayer in this Application is for cancellation of Anticipatory Bail granted to the Respondent Nos.2 to 4 by the order dated 24th June, 2005 passed by the Sessions Court. The prayer is also made for cancellation of Anticipatory Bail granted in favour of the Respondent Nos.5 to 7 by order dated 01st July, 2005.

2. A private complaint was filed by the Applicant herein before the Court of the learned Metropolitan Magistrate, 22nd Court at Andheri, Mumbai against Respondent Nos.2 to 7 alleging commission of offences under section 406, 420, 504, 506(ii) read with section 34 of the Indian Penal Code. On the said complaint filed by the Applicant, the learned Magistrate passed an order under section 156(3) of the Code of Criminal

Procedure, 1973 and directed that the complaint should be sent for investigation to Oshiwara Police Station.

3. The allegation made by the Applicant in the said complaint is that the Respondent No.2 is a Director of Brown Group of Companies. The Respondent No.7 is also a Director of the said Group of Companies. The Respondent No.5 is the wife of the Respondent No.2 and the Respondent No.4 is the brother of the Respondent No.2. The Respondent Nos.3 and 6 are the employees of the Respondent No.2. According to the case of the Applicant he was introduced to the accused by a Chartered Accountant. The said Chartered Accountant informed the Applicant that the Respondent No.2 and his Group of Companies were in need of some finance. On the representation made by the Respondent No.2, the Applicant advanced sum of Rs.Nine crores to the accused persons by arranging the said amount from his associates and other Group of Companies. Further sum of Rs.4.95 crores was also advanced by the Applicant. According to the Applicant, the accused persons handed over the six different cheques in the sum of Rs.7.50 lacs, Rs. 5 lacs, Rs.1crore fifty lacs, Rs.90 lacs, Rs.1 crore 32 lacs lacs and Rs.85 lacs to the Applicant. According to the Applicant the accused persons are liable to pay him a sum of Rs.27

crores. It is alleged that the said cheques issued by the the accused persons were returned with the remark "account closed". The allegation is that the accused persons accompanied with four to five unknown persons came to the Applicant's office on 15th March, 2005 and addressed the Applicant in a filthy language and threatened that if the Applicant demands money he will have to loose his life. The learned Sessions Judge held that the dispute between the parties was more of a civil nature and therefore, custodial interrogation was not warranted.

4. The learned Senior Counsel appearing on behalf of the Applicant submitted that the cheques issued by the accused persons in discharge of their liability were dishonoured on the ground that the bank account was closed. He submitted that in view of this position, it cannot be said that dispute between the parties is merely of a civil dispute. He submitted that the order of granting Anticipatory Bail has been passed without giving an opportunity to the police to make investigation.

5. The learned Senior Counsel appearing for the Respondent Nos.2 to 7 submitted that the cheques were issued by the Respondent No.2 not in individual

capacity but on behalf of the companies forming part of Brown group of Companies. He submitted that there is a civil suit filed by the said Respondents pertaining to the same transaction which is pending in the City Civil Court to which the Applicant is a party. He submitted that the Applicant himself was the Director of Brown Craft Industries Ltd. at least till the year 2002. He submitted that the said fact was suppressed by the Applicant in the complaint filed by him. He submitted that no case for cancellation of Anticipatory Bail is made out.

6. I have considered the submissions. It is an admitted position that even according to the case of the Applicant he advanced various amounts to the Brown Group of Companies. According to the case of the Applicant made out in the present Application, the Applicant himself was a Director in the Brown Group of Companies and he subsequently resigned. The Annual Reports of Brown Crafts Industries Ltd. produced by the Respondent Nos.2 to 7 on the record of this Application show that atleast till the year 2002, the Applicant was a Director of the said Company. It is not in dispute that some amount has been repaid to the Applicant after the six cheques which are referred to in the complaint were dishonoured.

7. It is not the case of the Investigating Officer that the Respondent Nos.2 to 7 have not attended the Police Station as per the condition imposed by the learned Sessions Judge while granting Anticipatory Bail. It is not the case of the Applicant that as directed by the order granting Anticipatory Bail by the Sessions Court, the Respondent Nos.2 to 7 have not attended the Police Station for a period of ten days. There is a civil suit pending between the parties. In view of this position, no case is made out for cancelling the Anticipatory Bail. However, I find that the orders granting Anticipatory Bail are passed for unlimited duration which is contrary to the law laid down by the Apex Court. Hence, modification to that extent is required to be made.

8. Hence, I pass the following order:

: O R D E R :

i) The prayer for cancellation of bail is rejected.

ii) The order dated 24th June, 2005 passed in

Anticipatory Bail Application No.903 of 2005 as well as the order dated 01st July, 2005 passed in the Anticipatory Bail Application No.918 of 2005 by the learned Additional Sessions Judge are modified.

iii) It is directed that the said orders will enure to the benefit of the Applicants therein only till the filing of the chargesheet and after filing of the chargesheet, the Respondent Nos.2 to 7 will be free to make appropriate Application before the appropriate Court.

iv) The orders granting Anticipatory Bail are further modified by directing that concerned accused persons will attend the Police Station as and when called upon to do so till filing of the chargesheet and will co-operate for investigation.

JUDGE